

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAWN TARDIBUONO-QUIGLEY, on
behalf of herself and all others similarly
situated,

Plaintiff,

v.

HSBC MORTGAGE CORPORATION
(USA) and HSBC BANK USA, N.A.,

Defendants.

Case No. 7:15-cv-06940-KMK-JCM

**DECLARATION OF D. GREG BLANKINSHIP IN SUPPORT
OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

D. GREG BLANKINSHIP hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a founding partner in the law firm of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP (“FBFG”), counsel to plaintiff Dawn Tardibuono-Quigley (“Plaintiff”). As such, I have personal knowledge of the information set forth below. I make this application in support of Plaintiff’s motion, pursuant to Fed. R. Civ. P. 23(a), (b)(2), and (b)(3), for class certification, and, pursuant to Fed. R. Civ. P. 23(g), for the appointment of FBFG as class counsel.

2. Attached hereto as Exhibit 1 is a true and correct copy of the Security Agreement executed by Plaintiff on or about December 22, 2008 produced by defendants HSBC Mortgage Corporation (USA) (“HSBC Mortgage”) and HSBC Bank USA, N.A. (“HSBC Bank”) (collectively, “HSBC” or “Defendants”).

3. Attached hereto as Exhibit 2 is a true and correct copies of portions of the transcript of the deposition of Shannon Tomasso dated November 2, 2017.

4. Attached hereto as Exhibit 3 is a true and correct copies of portions of the transcript of the deposition of Denise Dickman dated August 24, 2017.

5. Attached hereto as Exhibit 4 is a true and correct copy of the Expert Report of Christopher Wyatt dated February 27, 2018.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Expert Report of Dr. Marc Vellrath dated March 2, 2018.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Property Inspection Procedure HBUS produced by Defendants.

8. Attached hereto as Exhibit 7 is a true and correct copy of portions of the Subservicing Agreement by and between HSBC Bank USA, N.A. and PHH Mortgage Corporation produced by Defendants.

9. Attached hereto as Exhibit 8 is a true and correct copy of portions of Amendment No. 1 to the Subservicing Agreement by and between HSBC Bank USA, N.A. and PHH Mortgage Corporation produced by Defendants.

10. Attached hereto as Exhibit 9 is a true and correct copy of a monthly statement for Plaintiff's account dated May 16, 2014 that was produced by Defendants.

11. Attached hereto as Exhibit 10 is a true and correct copy of the Default Fee Limitations Procedure HBUS produced by Defendants.

12. Attached hereto as Exhibit 11 is a true and correct copy of a mortgage agreement dated July 10, 1997 utilizing a form issued by the Federal National Mortgage Association ("Fannie Mae") for New York single family homes that was produced by Defendants.

13. Attached hereto as Exhibit 12 is a true and correct copy of a mortgage agreement dated November 15, 1997 utilizing a form issued by Fannie Mae for New Jersey single family homes that was produced by Defendants

14. Attached hereto as Exhibit 13 is a true and correct copy of a mortgage dated September 19, 2000 utilizing a form issued by Fannie Mae for Florida single family homes that was produced by Defendants.

15. Attached hereto as Exhibit 14 is a true and correct copy of Plaintiff's Third Set of Interrogatories dated November 16, 2017.

16. Attached hereto as Exhibit 15 is a true and correct copy of Defendants' response to Interrogatory No. 11, which was sent by e-mail on November 28, 2017.

17. Attached hereto as Exhibit 16, collectively, are true and correct copies of security agreements for cooperative apartments in New York dated December 17, 2008, June 18, 2009, and April 10, 2012 that were produced by Defendants.

18. Attached hereto as Exhibit 17 are true and correct copies of form mortgage agreements collectively produced by Fannie Mae in response to a subpoena, together with a letter dated November 30, 2017 to myself from Mai Pham Robertson, Associate General Counsel for Fannie Mae.

19. Attached hereto as Exhibit 18 is a true and correct copy of a chart listing the dates that form mortgage agreements for single family homes issued by Fannie Mae included language precluded the assessment of fees against borrowers for services that were not necessary. This information is based on Exhibit 17. As set forth in Defendants' response to Interrogatory No. 11 (Exhibit 15), because of the possibility that it might take Defendants up to six months to replace the use of older forms once a new form is issued by Fannie Mae, the classes will be conservatively limited to borrowers that executed mortgage agreements no earlier than nine months after a new form was issued by Fannie Mae that included the relevant language, and no later than the month before Fannie Mae issued a revised form that did not include such language. This chart also includes a list of these conservative time periods.

20. Attached hereto as Exhibit 19, collectively, are true and correct copies of: a mortgage agreement for a condominium in New York dated April 22, 1998; a mortgage agreement for a condominium in New Jersey dated March 26, 1998; and a mortgage agreement for a condominium in Florida dated May 16, 1997. All of these documents were produced by Defendants.

21. Attached hereto as Exhibit 20 is a true and correct copy of a fee ledger for Plaintiff's account that was produced by Defendants.

22. Attached hereto as Exhibit 21 is a true and correct copy of a UCC Financing Statement Amendment filed on or about November 15, 2011 memorializing the assignment of Plaintiff's mortgage to HSBC Bank. It was produced by Defendants.

23. Attached hereto as Exhibit 22, collectively, are true and correct copies of property inspections reports for Plaintiff's property dated July 25, 2013, August 22, 2013, September 24, 2013, October 23, 2013, November 21, 2013, January 24, 2014, February 25, 2014, March 27, 2014, April 24, 2014, and May 27, 2014 . All were produced by PHH Mortgage Corporation ("PHH"). All indicate that the inspector was unable to gain access to Plaintiff's property.

24. Attached hereto as Exhibit 23, collectively, are true and correct copies of property inspection reports dated June 25, 2013, December 21, 2013, June 19, 2014, September 23, 2014, and December 30, 2014 that purport to be for Plaintiff's property, but discuss a different property. All were produced by PHH.

25. Attached hereto as Exhibit 24, collectively, are true and correct copies of correspondence between Plaintiff and either Defendants or their agent and sub-servicer, PHH. Specifically, they are Request for Workout Option forms submitted by Plaintiff and received by Defendants or PHH on March 25, 2014, April 2, 2014, April 25, 2014, May 19, 2014, and July 21, 2014. These documents were produced by PHH.

26. Attached hereto as Exhibit 25 is a true and correct copy of a Loan Modification Agreement for Plaintiff's mortgage that was produced by Defendants.

27. Attached hereto as Exhibit 26 is a true and correct copy of a monthly statement for Plaintiff's account dated July 28, 2015 that was produced by Defendants.

28. Attached hereto as Exhibit 27 is a true and correct copy of an account history for Plaintiff's account through October 7, 2015 that was produced by Defendants.

29. Attached hereto as Exhibit 28 is a true and correct copy of the Declaration of Dawn Tardibuono-Quigley executed on February 26, 2018.

30. FBFG is a leading class action firm that has successfully litigated class actions in this Court and in courts throughout the country. FBFG is also at the forefront of class action litigation concerning deceptive mortgage default fees, including the successful resolution of similar class action claims. *See Huyer v. Wells Fargo & Co.*, 314 F.R.D. 621 (S.D. Iowa 2016) (approving final settlement).

31. A true and correct copy of FBFG's resume is attached hereto as Exhibit 29.

32. Attached hereto as Exhibit 30 is a true and correct copy of the Second Amended Complaint filed in the above-captioned action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 2, 2018 in White Plains, New York.



A handwritten signature in blue ink, reading "D. GREG BLANKINSHIP", is written over a horizontal line. The signature is fluid and cursive, with "D. GREG" on the left and "BLANKINSHIP" on the right, enclosed in a large, sweeping loop.